

Senate Bill No. 373

Passed the Senate June 27, 2011

Secretary of the Senate

Passed the Assembly June 15, 2011

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 31484.9 of the Government Code, relating to county employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 373, DeSaulnier. Retirement: Contra Costa County.

Existing law, until January 1, 2012, authorizes the Contra Costa County Board of Supervisors to establish different retirement benefits for different bargaining units of safety employees represented by the Contra Costa County Deputy Sheriffs' Association, and the unrepresented groups of safety employees in similar job classifications and the supervisors and managers of those employees, as specified, pursuant to a resolution making those provisions applicable to that county.

This bill would delete the January 1, 2012, date thereby extending that authorization indefinitely.

The people of the State of California do enact as follows:

SECTION 1. Section 31484.9 of the Government Code is amended to read:

31484.9. (a) This section shall apply to the retirement system of Contra Costa County and only if the board of supervisors of that county adopts, by majority vote, a resolution making this section applicable in the county. Notwithstanding any other law, the board of supervisors may make this section applicable in the county on a date specified in the resolution, which date may be different than the date of the resolution.

(b) (1) When the board of supervisors meets and confers pursuant to the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1) with the Contra Costa County Deputy Sheriffs' Association, the parties may agree, pursuant to a memorandum of understanding as described in Section 3505.1, that the provisions of this section shall apply to safety employees represented by the Contra Costa County Deputy Sheriffs' Association.

(2) The terms of any agreement reached with the Contra Costa County Deputy Sheriffs' Association pursuant to this subdivision shall be made applicable by the board of supervisors to unrepresented county employees who are safety members in the Contra Costa County Sheriff's Office and in similar job classifications as employees within applicable bargaining units and the supervisors and managers of those employees.

(3) An ordinance or resolution adopted pursuant to this section may establish different retirement benefits for different bargaining units of safety employees represented by the Contra Costa County Deputy Sheriffs' Association and the unrepresented groups of safety employees in similar job classifications and the supervisors and managers of those employees. The ordinance or resolution may also establish the time period during which employees may make an election under this section and the date on which an employee shall be employed to be subject to this section.

(c) (1) Notwithstanding any other law, if the board of supervisors makes a particular provision or provisions of this chapter providing for increased benefits applicable to safety employees of the county represented by the Contra Costa County Deputy Sheriffs' Association through the adoption of an ordinance or resolution, the board of supervisors may at any time thereafter adopt another ordinance or resolution terminating the applicability of that provision or provisions as to current employees of the county who elect by written notice filed with the board to have the applicability of the provision or provisions terminated as to those employees. This section is intended only to authorize the termination of those benefits that the board of supervisors elected to increase over the basic benefits or to make applicable in addition to the basic benefits pursuant to the provisions of this chapter. The termination of benefits shall be consistent with the memorandum of understanding described in subdivision (b). Nothing in this section shall be construed as authorizing the board of supervisors to terminate the basic benefits required under the provisions of this chapter.

(2) The board of supervisors, prior to adopting an ordinance or resolution allowing the termination of the applicability of any increased benefit provisions shall provide a written explanation of the effect and impact of the termination for each member requesting termination of the applicability of any provisions.

(3) The board of supervisors shall require members requesting termination of the applicability of any provisions to sign an affidavit stating that the member has been fully informed regarding the effect of the termination, and understands that the termination of a provision or provisions is irrevocable. The affidavit shall also state that the employee has chosen termination of the provision or provisions of the employee's own free will and was not coerced into termination of any provision by the employer or any other person and shall waive and release any right to a benefit under the terminated provision or provisions for the period of service following the election.

(4) The board of supervisors shall, in the ordinance or resolution granting current employees the option of electing to have the applicability of the provision or provisions terminated, and consistent with the memorandum of understanding described in subdivision (b), specify the provision or provisions that shall be applicable to current employees making the election. More than one optional set of provisions may be made available for election, including, but not limited to, the "3 Percent at 55" retirement formula, a cost-of-living adjustment, and the definition of final compensation pursuant to Section 31462 or 31462.1.

(5) Employees who elect to have the provision or provisions terminated, shall have their retirement allowance for service rendered after the effective date of election calculated on the basis of the provision made applicable by the board of supervisors. Except as otherwise provided in this section, the retirement allowance for service rendered prior to the effective date of the election shall be calculated on the basis of the provision or provisions applicable during that period of service and the retirement allowance for service rendered on or after the effective date of the election shall be calculated on the basis of the provision or provisions applicable during that period of service. The total retirement allowance for an employee subject to this section shall be the sum of the retirement allowance calculated for service rendered prior to the effective date of the election and the retirement allowance calculated for service rendered on or after the effective date of the election. Any employee who has made an election shall not be eligible for retirement unless the employee meets the minimum requirements of the provision or provisions applicable at the date of retirement.

(6) Any employee who has made an election that the definition of “final compensation” in Section 31462.1 no longer applies, shall have the definition of “final compensation” in Section 31462.1 applied to all service rendered prior to the effective date of the election and the definition of “final compensation” in Section 31462 applied to all service rendered on or after the effective date of the election. For purposes of applying Section 31835 to a retirement system other than the retirement system in Contra Costa County, the highest average compensation described in this paragraph shall apply.

(7) Any employee who has made an election that a cost-of-living adjustment provision of Article 16.5 (commencing with Section 31870) no longer applies shall have the cost-of-living adjustment provision, if any, for service rendered prior to the effective date of the election calculated on the basis of the cost-of-living adjustment provision applicable during that period of service. Any cost-of-living adjustment provision specified by the board of supervisors for service rendered after the effective date of the election shall apply solely to that service. A termination of benefits shall be consistent with the memorandum of understanding described in subdivision (b).

(8) A current employee who has elected to have the applicability of the provision or provisions terminated may not rescind that election, unless the board of supervisors again makes the particular provision or provisions applicable to the employees who are represented by the Contra Costa County Deputy Sheriffs’ Association, through the adoption of a subsequent ordinance or resolution pursuant to a memorandum of understanding as described in Section 3505.1.

(9) An election made by a current employee shall be binding upon the employee’s spouse and all others claiming benefits under that employee’s entitlement.

Approved _____, 2011

Governor